

### **REMARKS**

Claims 6, 7, 10-13, 15-19, 21 and 22 are pending in this application. Claims 6, 7, 10-13, 15-19, 21 and 22 have been rejected. Support for the claim amendments can be found at least at ¶ 39 and FIG. 5 of Applicants' published application. In view of the foregoing amendments and following remarks, the Applicants request allowance of the application.

#### **Claim Objections**

Claims 6, 10, 11, 12 and 16-18 are objected to because claim steps are not separated by a semicolon. Applicants respectfully submit that 37 C.F.R. 1.75 does not require semicolons. At best, Rule 1.75(i) recommends separating separate claim steps by line indentions. Accordingly, the objection to the claims should be withdrawn.

#### **Claim Rejections under 35 U.S.C. §101**

Claim 6 stands rejected under 35 U.S.C. §101 because allegedly the claimed invention is directed to non-statutory subject matter.

In making the rejection of claim 6, the Office states the analysis for determining whether a method claim is statutory. However, claim 6 is directed to a system. Applicants respectfully submit that claim 6 recites statutory subject matter. However, in order to expedite prosecution, claim 6 has been amended to further relate the components of the system to a particular apparatus. Accordingly, the rejection of claim 6 should be withdrawn.

#### **Claim Rejections under 35 U.S.C. §112**

Claims 6 and 10 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 has been amended. Accordingly, the rejection of claim 7, which depends from claim 6, should be withdrawn.

As for claim 10, it is rejected as indefinite because the first word in a method claim "must indicate some action is occurring." Applicants respectfully disagree, and request the Examiner to provide support for this requirement by citing to either the Statutes, Rules or the MPEP. Applicants respectfully submit that claim 10 and dependent claims 11-13 and 15 are definite, and particularly point out and distinctly claim the subject matter of the invention. The rejection of claims 10-13 and 15 should be withdrawn.

Claim 22 stands rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement.

Claim 22 has been amended to recite an availability control manager as described in the specification. Accordingly, the rejection of claim 22 should be withdrawn.

#### **CLAIM REJECTIONS UNDER 35 U.S.C. §102**

Claims 10-13, 15-19, 21 and 22 stand rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Zawadzki.

Applicants' claim 10 recites, in part:  
determining, in response to a proposed posting *of revenue*, whether *a revenue calculation of any control objects would use the proposed posting in a revenue calculation*,  
executing AVC rules for each identified control object, the AVC rules testing whether *the proposed posting of revenue* would exceed *revenue limits for the control object*, and  
blocking, if any AVC rule is violated by the posting and if the AVC rule identifies an error as a response thereto, the posting from being admitted.

In making the rejection of claim 10, the Office asserts that Zawadzki discloses posting of revenue at column 40, lines 21-26 and column 41, lines 52-58. However, as described at ¶ 3 of Applicant's published patent application, conventional availability control systems do not operate on revenue-generating transactions. Claim 10 is directed to an availability control method that operates on revenue, not on expenditures.

Zawadzki is directed to a project management server that assists a user in managing a project by, for example, completing specifications, and generating requests for price quotations. A project tree represents project management objects, which can be of any type. Object types are defined for each particular implementation of the system. As described in Zawadzki's Abstract, typical examples of project management object types include organizational entities, work-groups, people, projects, budgets, tasks, costs, timesheets, specs, requisitions, purchase orders, and to-do lists. The objects are generally organized in a hierarchical data structure referred to as a project management tree or project tree.

The citation to column 40, lines 20-26 of Zawadzki refers to a user entering dollar amounts when a project is created, and placing the dollar amounts in the budget tree. Meanwhile, the citation to column 41, lines 51-58 of Zawadzki refers to a roll-up process where allocations to sub-projects entered by a user aggregate up to the parent project, and if the aggregated allocations to the sub-projects are over the amount budgeted for the parent project,

the step cannot be completed. Neither citation discloses or suggests the determining, executing or blocking steps that are based upon the posting of revenue as recited in claim 10.

Accordingly, Zawadzki does not anticipate claim 10 because Zawadzki does not operate on, even contemplate operating with, revenue, just expenditures. Zawadzki is fundamentally different from the claimed invention.

Claims 11-13 and 15 depend from claim 10, and are also allowable. Claim 16 recites a computer readable medium embodied with program instructions that cause a processor to perform the substantially the same method as claim 10. Claim 16 is also allowable for the same reasons as claim 10. Claims 17-19 and 21 depend from claim 16, and are also allowable.

In the rejection at pages 8 and 9 of the Office action, the Office quotes from MPEP §2106 regarding the conditional "if" statement recited in claims 10 and 16. The Office is reminded that the determination of whether each of the clauses in claims 10 and 16 is a limitation in the claim depends on the specific facts of the case. In *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a "'whereby' clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention." *Id.* However, the court noted (quoting *Minton v. Nat'l Ass'n of Securities Dealers, Inc.*, 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)) that a "'whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited.'" *Id.* Applicants submit that the conditions after the "if" statement in claims 10 and 16 should be given weight because they recite more than the intended result of a process step. Accordingly, the Examiner was correct to give the conditions patentable weight, not for the reason of examination, but for the reason that the conditional "if" statement further serves to limit the claim.

### **Claim Rejections under 35 U.S.C. §103**

Claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Park (U.S. Patent No. 6,058,375) in view of Zawadzki et al. (U.S. Patent No. 7,107,268).

Claim 6 is directed to a system. Claim 6 recites, in part:

a transaction manager, executing on a processor, configured to receive ***new revenue transactions in which revenue from the new revenue transactions is posted by an organization***,  
an Availability Control (AVC) manager, executing on the processor, responsive to ***the revenue posted from*** a new revenue transaction configured to execute an AVC rule represented by a control object, the AVC rule causing a comparison of

previously-posted revenue of the organization and **revenue of the new revenue transaction with a limit to how much revenue may be posted for the control object** and, if the comparison fails a relationship defined by the AVC rule, causing the transaction manager to reject the new revenue transaction.

As highlighted above, claim 6 recites revenue transactions and the posting of revenue. Revenue is the total income produced by a source, (Merriam-Webster's Collegiate Dictionary, 11<sup>th</sup> Edition, p. 1066, definition 1 (2005)).

As described at ¶ 3 of Applicants' published patent application, conventional availability control systems do not operate on revenue-generating transactions because most organizations accept revenue from any available source. However, some organizations, such as public sector organizations, cannot accept revenue from any source.

In contrast, the cited prior art describes the setting of expenditures against budget items in a budget. When the expenditure exceeds the budget item, the expenditure is not allowed to be set in the budget. Park describes an accounting system that does not disclose the above claimed transaction manager. For example, Park in Table 2 in column 24 has a column for "Fund revenue", but none of the surrounding text describes a use of the fund revenue as recited in claim 6, and the Examiner has not cited any portion of Park that describes a use of Fund revenue as in claim 6.

The Office admits that Park does not show an availability control manager as recited in claim 6. The Office relies on Zawadzki to overcome the deficiencies of Park.

The Office cites to the same column and line numbers of Zawadzki as used in the rejection of claim 10. As explained above with reference to claim 10, Zawadzki is directed to a project management system that utilizes a project tree structure, and the citations to columns 40 and 41 do not disclose the features recited in Applicant's claim 6. Zawadzki does not overcome the deficiencies of Park.

Neither citation in Zawadzki discloses or suggests the claimed transaction manager or the claimed availability control manager that operate on revenue as recited in claim 6.

As the Examiner is aware, to reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim feature. *See Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990), *cert. denied*, 111 S. Ct. 296 (1990); *In re Bond*, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that neither Park nor Zawadzki, either individually or in combination, disclose or suggest all of the features recited in Applicant's

independent claim 6 as explained above. Accordingly, claim 6 is allowable. Claim 7 depends from claim 6, and is also allowable.

**CONCLUSION**

All outstanding rejections have been overcome. It is respectfully submitted that, in view of the foregoing amendments and remarks, the application is in clear condition for allowance. Issuance of a Notice of Allowance is earnestly solicited.

Although not believed necessary, the Office is hereby authorized to charge any fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Office is invited to contact the undersigned at 202-220-4228 to discuss any matter regarding this application.

Respectfully submitted,

Date: June 12, 2009

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